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Farmworkers, growers dissatisfied after overtime change

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Hours are being cut in local fields because as of Jan. 1, farmers with 26 or more workers have to pay overtime for work done beyond eight hours, and work totaling more than 40 hours per week. Bakersfield Farmworker Enrique Moreno, 51, pictured at left, said he was curious what the farmers will do as work piles up in the fields. "They need the help," Moreno said. "But they don't want to pay overtime." Eduardo Nava, 47, right, said he saw no benefit to the changes and that "we're going to wait and see what

Uncomfortable adjustments are under way now that California farm operations with 26 or more employees have to pay one and a half times the regular rate for work done after eight hours in a day and more than 40 in a week.

The change has been confining for an industry accustomed to working six days per week, often 10 hours per day, without incurring overtime. It so happened the new rules hit Jan. 1, the day state law required those same employers to pay a minimum of \$15 per hour.

Farmers are doing what they can to avoid triggering overtime, though as crops grow it's unclear how long they'll be able to limit crews to relatively short shifts and abrupt work weeks. Even smaller growers with 25 or less workers report having a hard time with overtime that, for them, now kicks in after nine and a half hours in a day and after 55 in a week.

Farmworkers are of two minds. For many, Jan. 1 marked the end of a stark contrast with virtually every other part of the U.S. workforce. They will be paid a higher rate for doing physically demanding work for durations longer than many U.S. workers care to sit at a desk.

At the same time, the new overtime rules have proved financially limiting for ag laborers. Workers anxious for maximum earnings often want to put in longer shifts or a sixth day in the work week. But their bosses are turning them away because overtime isn't in the budget.

Saturday at a gas station and general store south of Lamont along Weedpatch Highway, farmworkers came and went, many of them still getting used to having Saturdays off work because their employers don't want to pay overtime after the new rules took effect two weeks earlier.

Several complained about the change, saying the minimum wage increase gave them only \$8 per day but the overtime revisions have cost them a full day's pay.

Enrique Moreno, a 51-year-old farmworker living in Bakersfield who was gassing up a truck loaded with empty bins Saturday, said he misses the old rules. He said he was curious what the farmers are going to do as work piles up in the fields.

"They need the help," Moreno said. "But they don't want to pay overtime."

The Lamont farmworker Moreno chatted with before pulling away from the station, Eduardo Nava, 47, said he saw no benefit to the changes and that "we're going to wait and see what happens."

Nearby, 47-year-old citrus worker Hector Vargas said it's getting hard paying the bills working only 40 hours per week. Although his hourly rate went up, he said, so have prices on many goods. Without the longer hours, he will have trouble buying clothes and extras for his family.

Enjoying breakfast inside the store, field worker Carlos Mendoza, 50, said he feels helpless not being able to work Saturdays anymore.

"There's nothing you can do," Mendoza said. He added that his employer doesn't want him taking a second job, but "we need to do something."

The bottom line for Armando Elenes, secretary-treasurer of the United Farm Workers labor union, is that workers deserve a decent hourly rate. He said farmworkers, instead of working long hours at undifferentiated rates, can now spend time with their family and save themselves some wear and tear from physically taxing work.

Elenes recalled that when farm groups originally fought the overtime provisions that have been phased in since their passage in 2016, employers predicted bringing in second shifts to avoid the need for overtime. That hasn't happened on a large scale, he noted, while also acknowledging the new system will just take some getting used to.

“When there’s a change there’s an adjustment period,” Elenes said.

Piece-rate laborers comprising the majority of California’s field workforce won’t be affected, Elenes said, because they tend to work shifts of five to seven hours. He said his hope was that the change, combined with what employers say is a difficult shortage of workers, will lead to better pay for ag labor.

For their part, farmers say it’ll lead to greater use of automation as they try their best to adjust labor costs to fit within prices the market pays for their crops.

Kevin Andrew, senior vice president of Bakersfield-based farming company Illume Ag, still isn’t used to the shorter weeks. He said it’s weird getting up Saturdays expecting to see crews on the company’s vineyards; but now, no one’s there.

So far the company has stuck to plan, avoiding overtime pay as much as possible. Andrew said tractor drivers who used to work 10 hours per day now work eight.

When Illume brought on a late-shift irrigation worker, other workers complained he was taking away their hours, he said.

“I say, ‘I can’t afford to pay \$25 to \$30 an hour to have you irrigating. I just can’t,’” Andrew recalled telling his employees.

There’s some concern the company may have no choice but to pay overtime as February draws near and vines must be pruned ahead of budding. If a significant amount of rain falls later this month, halting work, he said, the company may have no choice but to rely on longer work shifts.

“You’ve got to get on these things,” he said. “You’ve got a very short window.”

Having more farmworkers available would help, Andrew said, adding he’s a supporter of comprehensive immigration reform that could help stabilize the ag labor market and come with wider access to guest workers.

Bryan Little, director of employment policy at the California Farm Bureau, said there are reports of workers getting second and third jobs to make up for income lost when their hours were cut to eight hours per day and 40 per week.

“For employees making, you know, \$15 an hour, that two hours per day is pretty significant,” he said.

For growers, the situation also increases the incentive to automate. Investments in robotics that might have been off the table before might look more reasonable now, Little said.

Granted, he said, labor-intensive crops like grapes, blueberries and strawberries still require handling. But he predicted higher employment costs will lead to greater spending on conveyors and other equipment that cuts the amount of time workers spend moving harvested crops to packing stations.

The Kern County Farm Bureau said in a statement that although the overtime changes may have been well-intended, they have raised costs on the local ag industry.

“With California already being one of the most difficult and expensive places to do business, these cumulative costs pose significant challenges to some farmers to remain competitive or quite frankly stay in business,” bureau President Patty Poire stated.

Spokesman Daniel Larios with the UFW Foundation noted Jan. 1 marked the first time farmworkers earned overtime pay “the same as any other California worker.”

It took a big fight in the state Legislature to get the change made, he added, and at the end of the day it means laborers are earning higher wages and aren’t being treated as second-class workers.

He said by email the state’s \$50 billion ag industry makes large profits that have continued despite the pandemic.

“The UFW and UFW Foundation believe farm workers deserve to be treated the same as all other workers,” he wrote.

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